

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 104 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning civil
- 3 procedure.
- 4 Page 1, line 1, delete "THE FOLLOWING ARE REPEALED" and
- 5 insert "IC 34-10-1-2 IS AMENDED TO READ AS FOLLOWS".
- 6 Page 1, line 2, delete "IC 34-10-1; IC 34-10-2." and insert "Sec. 2.
- 7 **(a) Subject to subsection (d),** if the court is satisfied that a person who
- 8 makes an application described in section 1 of this chapter does not
- 9 have sufficient means to prosecute or defend the action, the court ~~shall~~:
- 10 **may:**
- 11 (1) admit the applicant to prosecute or defend as an indigent
- 12 person; and
- 13 (2) assign an attorney to defend or prosecute the cause.
- 14 **(b)** All officers required to prosecute or defend the action shall do
- 15 their duty in the case without taking any fee or reward from the
- 16 indigent person.
- 17 **(c) A civil indigent counsel defense fund is established for each**
- 18 **court with civil jurisdiction in Indiana. Money appropriated to a**
- 19 **court's civil indigent counsel defense fund may be used only for the**
- 20 **payment of the reasonable attorney's fees, costs, and expenses of**
- 21 **attorneys assigned to represent indigent persons under this section.**
- 22 **(d) The court may order the:**
- 23 **(1) payment of compensation to; or**
- 24 **(2) reimbursement of costs or expenses incurred by;**
- 25 **attorneys assigned to represent indigent persons under this section**
- 26 **only to the extent that money has been appropriated to and is**
- 27 **available in the court's civil indigent counsel defense fund.**
- 28 **(e) A political subdivision with a court may appropriate money**
- 29 **to the court's civil indigent counsel defense fund only after the**
- 30 **court has complied with this subsection. The court shall publish**
- 31 **notice of the court's request for an appropriation in accordance**

1 with IC 5-3-1. The notice must report the amount of the proposed
2 appropriation and the amount expended from the court's civil
3 indigent counsel defense fund in the immediately preceding
4 calendar year. A court's notice under this subsection may be
5 combined with the notice of another court. After the notice is
6 published, the judge of the court shall meet with the fiscal body of
7 the political subdivision in a public meeting. The judge shall
8 present to the fiscal body a summary of the information contained
9 in the published notice and discuss with the fiscal body the use of
10 money in the court's civil indigent counsel defense fund. After a
11 court has published the notice and met with the fiscal body, the
12 political subdivision may appropriate money to the court's civil
13 indigent counsel defense fund for use in the next calendar year. The
14 appropriation must be adopted by the fiscal body of the political
15 subdivision before the time specified in IC 6-1.1-17-5 for the
16 adoption of the political subdivision's annual budget."

(Reference is to SB 104 as printed February 23, 2001.)

Senator KENLEY